

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

H5G, LLC

Plaintiff,

v.

RAM GROUP, INC.

Defendant.

Civil Action No. 19-cv-982

**JOINT RULE 26(F) REPORT**

Pursuant to Federal Rule of Civil Procedure 26(f), Civ. L.R. 16(a), and this Court's Notice regarding the Rule 16(b) Scheduling Conference, counsel for Plaintiff and Defendant met and conferred by telephone on August 15, 2019 to discuss the nature of the case, a discovery plan, and case schedule. The parties now submit this Joint Rule 26(f) Report.

**I. Nature of the Case (L.R. 16(a)(1)(A)).**

This case concerns authorship of clothing patterns. In a state court action filed by RAM Group in Milwaukee County Circuit Court on December 10, 2018, RAM Group has alleged that H5G received clothing patterns from RAM Group and used manufacturers other than RAM Group to make clothing using the patterns received from RAM Group. The state court has ruled that it is without jurisdiction to determine the authorship of clothing patterns used by H5G because such claim is governed by U.S. copyright law. H5G filed this suit for a declaration of authorship as it relates to clothing patterns it has used. Specifically, H5G alleges that it or its predecessor in interest is at least a joint author in certain clothing patterns, under the U.S. constitution and 17 U.S.C. § 201, and seeks a declaration from the Court to that effect.

**II. Contemplated Motions (L.R. 16(a)(1)(B)).**

Beyond Defendants' Motion filed with the Court on August 1, 2019 (Dkt. 9), the parties are not presently contemplating any other motions, but expect to file summary judgment motions and other motions as the need arises.

**III. Proposed Discovery and Pretrial Schedule (L.R. 16(a)(1)(C)).**

The parties propose the following schedule:

<b>Event</b>	<b>Deadline Proposed by the Parties</b>
Deadline to exchange Initial Disclosures pursuant to Rule 26(a)(1)	September 9, 2019
Deadline to add additional parties and amend pleadings without leave of the Court	October 31, 2019
Deadline for the party bearing the burden of proof to submit opening expert reports	March 1, 2020
Deadline for rebuttal expert reports	April 1, 2020
Deadline to complete all discovery (requests to be served in time for responses to be served by this date)	May 4, 2020
Deadline to file motions for summary judgment and other dispositive motions	May 18, 2020
Final Pretrial Submissions (e.g., motions in limine)	July 1, 2020
Final Pretrial Conference	July 15, 2020
Trial	July 29, 2020 – July 31, 2020

**IV. Discovery Issues (L.R. 16(a)(1)(D)).**

**A. Protective Order**

The parties agree that entry of a protective order is appropriate for this case and will work together to jointly submit a proposed protective order to the Court. The parties have entered into an agreed protective order in a related case in Milwaukee County Circuit Court for the State of Wisconsin and anticipate that the proposed protective order submitted to this Court will be substantially similar, if not identical, to the protective order in that related case.

**B. Likely Discovery Needed**

The parties anticipate discovery will be needed regarding at least the following issues:

- (i) Identity of persons involved in the creation of original and modified versions of the clothing patterns used by H5G to make or have made clothing articles;
- (ii) Contributions of such persons in the creation of the clothing patterns used by H5G to make or have made clothing articles;
- (iii) Relationships of such persons to Plaintiff and/or Defendant;
- (iv) Any sale, transfer, or assignment of ownership interests in the clothing patterns used by H5G to make or have made clothing articles;
- (iv) The contracts between the parties for design services and product fulfillment;
- and
- (v) Molbeck's background in pattern creation and/or clothing design.

**C. Modifications to Limits on Discovery Imposed by the Federal Rules**

The parties do not at this time propose any changes to discovery limits provided in the Federal Rules of Civil Procedure or the Local Rules.

**D. Attorney-Client Privilege / Attorney Work Product**

The parties agree that Federal Rule of Evidence 502 applies to the conduct of discovery in this case. To that end, the parties respectfully request that the Court enter an Order stating that Rule 502 applies in this case and in all proceedings in any other federal or state court in accordance with Rule 502(d). Entry of this Order will constitute entry of such a Rule 502(d) order.

The parties further agree that any materials protected from discovery by the attorney-client privilege or the attorney work product doctrine and created solely for the purposes of this

litigation, beginning as of December 10, 2018, do not need to be identified on a log of withheld documents under Federal Rule of Civil Procedure 26(b)(5).

**E. Discoverable Information**

The parties anticipate discovery on all claims and defenses, including all issues of liability and damages. The parties do not believe limited or phased discovery would be time- or cost-effective, or otherwise appropriate. The parties understand that the categories of information discoverable for purposes of this action are as follows, which are exemplary and not limiting:

- (a) email correspondence;
- (b) electronic (i.e., computer readable) files on the parties' respective servers;  
and
- (c) raw clothing material at H5G.

Electronically stored information (ESI) production requests shall identify custodian, search terms, and time frame. The parties shall cooperate to identify the proper custodians, proper search terms, and proper timeframe.

**F. Document Production Format**

The parties agree to produce documents (both digital information and hard copy) as images, native files, and extracted text/OCR. The parties have been cooperating in the related Wisconsin state court case and will continue to cooperate regarding reasonable production demands and format. Generally, however, images are to be produced as single page TIFF files including a filename reflecting its bates number (*e.g.*, H5G00001.tif).

The parties also agree that, for any documents that are not reasonably reviewable as an image (such as Excel spreadsheets or audio or video files), the parties will produce such documents in their native formats. Each party reserves the right to request native files for documents that are difficult to view or understand after they have been produced in the format

specified herein or that contain potentially relevant embedded information, and such requests will not be unreasonably denied.

The parties are only obligated to provide the following electronic metadata for all ESI produced, to the extent such electronic metadata exists: Custodian (if available), Email Subject, From, To, CC, BCC, Date Sent, Filename, Title, Author, Date Created, Date Last Modified, Extracted Text, MD5 Hash, File Extension.

**G. Settlement (L.R. 16(a)(1)(F)).**

The parties have exchanged correspondence related to settlement in this litigation. The parties are also engaged in separate litigation that has involved settlement negotiations that may have related to claims in this litigation but the parties have not yet reached agreement. The parties are open to mediation and will cooperate to coordinate same with the Court.

Dated: August 19, 2019

**H5G, LLC**

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**RAM GROUP, INC.**

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